IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:8.07.2005

Coram:

The Honourable Mr.MARKANDEY KATJU, CHIEF JUSTICE

and

The Honourable Mr.Justice F.M.IBRAHIM KALIFULLA

Writ Petition No.22394 of 2004
and
Writ Appeal Nos.1394 and 1395 of 2003
and
W.A.M.P.Nos.1775 & 1776 of 2003
and
W.P.M.P.No.27113 of 2004

.....

W.P.No.22394 of 2004

Santhosh Hospitals Private Limited,
Rep. by its Administrative Officer,
S.Chakravarthi,
1, Seventh Avenue,
Besant Nagar, Chennai 600 090. ..Petitioner

-vs-

1. State Human Rights Commission, Tamil Nadu
rep. by its Registrar,
35 Thiru Vi.Ka. Salai,
Chennai - 600 014.

2. The Chairman, Authorisation Committee,
and the Director of Medical Education,
Chennai - 600 010.

3. Thiru.M.R.Balasubramani,
13/20, Iyya Street,
Royapettah, Chennai - 600014.

4. Dr.S.Vijayaraghavan,
Nephrologist,
2, Raja Garden First Street,
Kotivakkam, Chennai -600 041.

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5. The Secretary to the Government
of Tamil Nadu, Home Department,
Chennai - 600 009.

6. The Secretary to the Government of
Tamil Nadu, Health and Family Welfare
Department, Chennai - 600 009.. … Respondents

W.A.No.1394 of 2003

Santosh Hospitals Private Limited,
Rep. by its Administrative Officer,
S.Chakravarthi,
1, Seventh Avenue,
Besant Nagar, Chennai - 600 090. ... Appellant

Vs.

1. The Appropriate Authority
Human Organ Transplantation Act, 1994,
Office of the Director of Medical and
Rural Health Services,
Chennai - 600 006.

2. The Chairman, Authorisation Committee
and the Director of Medical Education,
Chennai - 600 010. … Respondents

W.A.No. 1395 of 2003

Santosh Hospitals Private Limited,
Rep. by its Administrative Officer,
S.Chakravarthi,
1, Seventh Avenue,
Besant Nagar, Chennai - 600 090. … Appellant

Vs.

1. State Human Rights Commission, Tamil Nadu
rep. by its Registrar,
35 Thiru Vi.Ka. Salai,
Chennai - 600 014.

2. The Chairman, Authorisation Committee
and the Director of Medical Education,
Chennai - 600 010.

3. Thiru.M.R.Balasubramani,
13/20, Ivva Street,
Royapettah, Chennai - 600014. … Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari for the reasons stated therein calling for the records of the respondents relating to the order of the 1st respondent dated 28.07.2004 and made in S.H.R.C.case No.5026/2002/SS, and quash the same in so far as it relates to the petitioner.

Appeals filed under Clause 15 of the Letters Patent against the order passed in W.P.Nos. 40101 & 41806 of 2002 dated 13.03.2003.

For Appellant in
WA Nos.1394,1395/2003
and
For Petitioner in
WP No.22394/2004 ..Mr.Dinesh Dwedi
Senior Council for
Mr.Kandavadivel Doraisamy.

For Respondent No.1 and 2
in WA 1394 of 2003
and for the
2nd respondent in WA 1395/2003 ..Mr.N.R.Chandran Advocate
For Respondents in General Assisted by
2,5 & 6 in Mr.V.Raghupathy Govt. Pleader
WP No.22394/04

For Respondents
R1 in WA 1395/03
and For R1 in WP 22394/04 ..Mr.G.Masilamani
Senior Council for
M/s. G.M.Associates

For Respondents
R3 in WA 1395/03
and For R3 in WP No.22394/04 ..Mr.K.Goviganesan

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O R D E R

THE HONOURABLE THE CHIEF JUSTICE

This writ petition has been filed praying for the a Writ of Certiorari to quash the impugned order of the first respondent/State Human Rights Commission, Tamil Nadu dated 28.07.2004

2. Heard Mr.Dinesh Dwivedi, learned senior counsel for the petitioner; Mr.N.R.Chandran, learned Advocate General for the State; Mr.G.Masilamani, learned senior counsel for the State Human Rights Commission and Mr.K.Govi Ganesan for the third respondent in the writ petition.

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3. The petitioner claims to be a reputed hospital in Chennai. After the enactment of the Transplantation of Human Organs Act, 1994 (hereinafter referred to as 'the Transplantation Act'), the petitioner applied for registration under Section 10 of the Transplantation Act to the appropriate authority viz., the Director of Medical and Rural Health Services, Tamil Nadu for conducting transplantation of human organs. By order dated 01.09.1996, the registration certificate was issued to the petitioner in Registration No.43670/E.7/4/95 valid for the period from 01.09.1996 to 31.08.2001 authorising the petitioner to allow kidney transplantation in its hospital. The registration was renewed from 01.09.2001 to 31.08.2006, and the same is valid and is in force.

4. It is alleged in paragraph 4 of the petition that one Dr.S.Vijayaraghavan, is a reputed nephrologist. He has been conducting kidney transplantation operations in various hospitals including the petitioner hospital. He wanted to conduct kidney transplantation for one S.Seralathan by removing one kidney from M.R.Balasubramani, the third respondent, in the petitioner hospital. Dr.S.Vijayaraghavan is not an employee of the petitioner hospital, but he is merely utilizing the facilities available in the petitioner hospital for conducting kidney transplantation surgery.

5. In paragraph 5 of the petition it is alleged that an order of approval being Ref.No.75141/H&D1/2001 dated 04.12.2001 together with an affidavit of M.R.Balasubramani (Donor) signed by M.R.Balasubramani on 13.12.2001 and his wife Gomathi and attested by XXI Metropolitan Magistrate, Egmore, Chennai - 8, and the affidavit of S.Seralathan (Recipient) dated 13.12.2001 and attested by XXI Metropolitan Magistrate, Egmore, Chennai were produced by S.Seralathan through Dr.Vijayaraghavan, the nephrologist. Only on receipt of the above mentioned documents the petitioner in the usual course allowed the kidney transplantation for S.Seralathan in the petitioner hospital which took place on 18.12.2001.

6. In paragraph 6 of the affidavit it is stated that except permitting surgery to be conducted in its theatre and the post operative stay, the petitioner did not have any role in the transplantation procedure, which was conducted by Dr.S.Vijayaraghavan.

7. In the affidavit dated 13.12.2001, which was attested by XXI Metropolitan Magistrate, Egmore, Chennai, and signed by the Donor as well as his wife, it was stated: -

> " I further declare and state that the donation of kidney by me is a voluntary one and there is no monetary consideration involved in it."

8. It appears, however, that subsequently the third respondent/M.R.Balasubramani gave a complaint to the first respondent/State Human Rights Commission on 26.08.2002 against Dr.S.Vijayaraghavan who conducted the transplantation to the effect that a sum of Rs.1,50,000/- was agreed to be paid to the donor for

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donating one kidney, but only a sum of Rs.45,000/- was paid at the time of the surgery, and the balance amount of Rs.1,05,000/- has not yet been paid. Hence M.R.Balasubramani approached the State Human Rights Commission for issuance of a direction for recovery of Rs.1,05,000/- alleged to have been agreed by Dr.S.Vijayaraghavan to be paid for the kidney.

9. The aforesaid complaint of Balasubramani to the State Human Rights Commission states: -

" From

Balasubramani

13/20, Iyya Street,

Royapettah,

Chennai – 14.

To

Honourable Mr.Member

State Human Rights Commission,

Royapettah,

Chennai – 14.

Sir,

I have two grown up girls. I was not able to maintain my family with my monthly income of Rs.1,600/-. Therefore I started borrowing. Ultimately the debts became a great burden. I suffered because I could not repay the debts. I became a mental patient. Myself, my wife and my daughters were about to commit suicide. At that stage I thought I can donate one kidney and with that money I can solve the problem. With this object I met a doctor. He examined me. He told me that a person was fighting for his life and my kidney can be transplanted to him. The doctor assured that the person who is fighting for his life would pay me Rs.1,50,000/-. Because of the family circumstances and the debt burden I gave my consent. On the date of kidney transplantation I was paid Rs.45,000/-. He told that the balance would be paid later. Now the doctor is refusing to make payment.

Even though four months time have passed after the transplantation I have not received the money. When I approached the doctor he told me that only a sum of Rs.45,000/- was agreed and threatened that if I demand anything more he would do some thing to me and my family. Therefore my heart broke. I approached the recipient of the kidney. He told me that he has nothing to do with me and that I should approach only the doctor. I, therefore, humbly request you to save me and my family.

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Note: I came to know subsequently that he had conducted the transplantation without the permission of the Government

Sir,

I forwarded this petition to the Chief Minister of Tamil Nadu. Letter went to the Commissioner of Police from the C.M.Special Cell. After two months Thiruvanmiyur police came to my house saying that they have received the letter. They enquired my wife about this. They told my wife to inform me when I returned and asked me to go to the police station next day. I met the Writer. He told me that when he went to Santosh Hospital and enquired he was informed that there was no such doctor. He wanted to know the residential address of the doctor. The Writer told me that the doctor will come to you to discuss and you bring here when he comes.

Sir, I request you to save me and my family. I have enclosed a copy.

Thanking you,

The address of the recipient The Doctor Yours faithfully,

Seralathan Vijayaraghavan

5/65, Second Street, Besant Nagar

Workers Street, (Balasubramani)"

Neelankarai

10. On the basis of the complaint of the third respondent, the State Human Rights Commission issued summons to the petitioner, the second respondent (Chairman, Authorisation Committee), and Dr.S.Vijayaraghavan, the fourth respondent to appear before it on 18.10.2002. On that date, the second respondent filed a counter affidavit before the State Human Rights Commission stating that the approval letter submitted by M/s.Santosh Hospitals Private Limited under Section 9(3) of the Transplantation Act in respect of patient S.Seralathan is a bogus one. It was further contended that no such application in respect of patient S.Seralathan, the donee, and M.R.Balasubramani, the donor, was either submitted by the hospital or received in the Directorate of Medical Education, Chennai. In the Authorisation Committee meeting held on 04.12.2001 no such order was issued in favour of the above individuals. The Chairman of the Authorisation Committee further contended in his counter affidavit before the State Human Rights Commission that the act of Dr.S.Vijayaraghavan who performed the renal transplantation without the approval of the Authorisation Committee is highly irregular and punishable under the Transplantation Act, and the petitioner should have obtained prior permission or approval of the Authorisation Committee, and without approval of the Authorisation Committee permitting to perform the operation is highly irregular and the hospital's registration is liable to be suspended or cancelled. The Authorisation Committee also stated in its counter affidavit that action was being taken by addressing a letter to the Director of Medical and Rural Health Services and Member Authorisation Committee,

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Chennai for enquiry into the matter and for considering the cancellation of the registration of the institution.

11. A counter affidavit was filed by Santosh Hospitals Private Limited/petitioner before the State Human Rights Commission in which it was stated that one Dr.S.Vijayaraghavan, a Nephrologist wanted to conduct a kidney transplantation for one S.Seralathan by removing one kidney from M.R.Balasubramani, the complainant. An order of approval in Reference No.75141/H&D1/2001 along with documents was produced by the recipient through Dr.S.Vijayaraghavan. After receipt of the documents Santhosh Hospital in the usual course allowed kidney transplantation for S.Seralathan which took place on 18.12.2001. It was alleged that except for giving permission to Dr.S.Vijayaraghavan to conduct transplantation no other role was played by the hospital in the transplantation procedure. It is alleged that the hospital had nothing to do with the submission of the application and sending of the authorization order.

12. Dr.S.Vijayaraghavan, who was the third respondent before the State Human Rights Commission, also filed a counter affidavit before the commission. In that he has stated that the recipient S.Seralathan himself produced the certificate issued by the Authorisation Committee, and on believing the same as true and genuine, the operation was duly performed. Hence, he has alleged that he has not committed any irregularity.

13. It appears that while the enquiry was pending before the State Human Rights Commission, the complainant M.R.Balasubramani filed an application dated 02.07.2003 stating that he was withdrawing the complaint on his own accord and requested the commission to dismiss the complaint as not pressed. This application was rejected by the Commission since it was of the view that the dispute was not between two individuals, but it was as to whether the parties followed the provisions of the Transplantation Act, as violation of the provision was a serious offence against the society. Hence the Commission felt that a detailed enquiry was desirable.

14. Consequently Dr.Ravindran, Director of Medical Education, and Dr.Anil Kumar, Deputy Director of Medical Education appeared before the Commission and submitted that the permission order alleged to have been given by the Authorisation Committee under Section 9(3) of the Transplantation Act to perform the operation was a bogus one, and so the question of scrutinizing the documents said to have been produced by the donor and the donee did not arise.

15. Considering all the facts of the case, and also the fact that the complainant had to donate one of his kidneys due to his poverty and to escape from the clutches of his creditors, the Commission on humanitarian grounds recommended the Government of Tamil Nadu to pay a sum of Rs.30,000/- to the complainant which could be recovered from the person responsible for this heinous crime after detailed probe by the Crime Branch, CID. In conclusion, the State Human Rights Commission by the impugned order made the following recommendations:--

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1)The Secretary to Government of Tamil Nadu, Home Department, Secretariat, Chennai shall order a detailed investigation by Crime Branch, CID and file appropriate criminal case against the culprits who played with the life of the poor people taking advantage of their pathetic condition.
2)The Secretary to Government of Tamil Nadu, Health and Family Welfare Department, Secretariat, Chennai on humanitarian consideration, shall pay a sum of Rs.30,000/- (Rupees thirty thousand only) to the complainant Thiru.M.R.Balasubramani, 13/20, Ayyah Street, Royapettah, Chennai - 600 014 as compensation and shall recover the amount so paid from the guilty persons by invoking appropriate provisions of law".

16. Mr.Dinesh Dwivedi, learned senior counsel for the petitioner, submitted that the Protection of Human Rights Act, 1993 (hereinafter referred as the 'Human Rights Act') deals only with violation of human rights 'by public servants' and not by others. He has submitted that the petitioner is not a public servant, and hence the Human Rights Act had no application, and consequently the impugned order was without jurisdiction and a nullity.

17. In this connection, the learned senior counsel has invited our attention to Section 12(a) of the said Act, which states: -

" The Commission shall perform all or any of the following functions, namely: -
(a)inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of -
(i)violation of human rights or abetment thereof; or
(ii)negligence in the prevention of such violation by a public servant;"

18. Mr.Dinesh Dwivedi, learned senior counsel, submitted that the words "by a public servant" would govern both sub-clause (i) and sub-clause (ii) of Section 12(a) of the Human Rights Act.

19. On the other hand, Mr.G.Masilamani, learned senior counsel for the Commission, submitted that the words "by a public servant" governs only sub clause (ii) and not sub-clause (i) of Section 12(a) of the Human Rights Act.

20. In our opinion, the submission of Mr.Dinesh Dwivedi appears to be correct, because if we read Section 12 along with Section 18 of the Human Rights Act, whatever ambiguity there may have been in Section 12 of the Human Rights Act gets clarified by Section 18 of the Human Rights Act. Section 18(1) states: -

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" The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely: -
(1)where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons"

21. A perusal of Section 18 of the Human Rights Act shows that the Commission can take action in the matter where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant. Thus, the ambiguity, if any, in Section 12(a) of the Human Rights Act gets removed by perusing Section 18 of the Human Rights Act.

22. This position becomes further clear on a perusal of Form-A of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997. Clause 9 of which states: -

" Name, designation and address of public servant, who violated Human Rights or by whose negligence the violation was not prevented (Enter here all the names and addresses if more than one is complained against)"

23. Similarly in Form-I of the National Human Rights Commission (Procedure) Regulations, 1997, it is stated in clause-8: -

" Name, designation and address of the public servant by whom alleged violation of human right was committed/abetted or who was negligent in prevention of such violation

(i)

(ii)

(iii)

(NOTE: If the complaint relates to Armed Forces, here specifically indicate the Ministry/Department of the Central Government under which such Armed Forces come)

24. Thus, a perusal of the provisions of the Act and the forms annexed to the Regulations clearly indicate that the Human Rights Act deals with violation of Human Rights by a public servant and not others. The petitioner is surely not a public servant, and hence the Human Rights Act will not apply to him at all.

25. It may be mentioned that the expression "public servant" has been defined in Section 2(m) of the Human Rights Act as follows: -

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" Public Servant shall have the meaning assigned to it in Section 21 of the Indian Penal Code"

26. Section 21 of the Indian Penal Code states: -

" The words "public servant" denote a person falling under any of the descriptions hereinafter the following, namely:

First---(Omitted by Adaptation of Laws Order, 1950)

Second---Every Commissioned Officer in the Military, Naval or Air Forces of India

Third—Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions.

Fourth - Every Officer of a Court of Justice including a liquidator, receiver or commissioner whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any such duties;

Fifth - Every juryman, assessor, or member of panchayat assisting a Court of Justice or public servant;

Sixth - Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh - Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth - Every Officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, orto protect the public health, safety or convenience;

Ninth - Every officer whose duty it is, as such officer, to take,receive,keepor expend any property on behalf of the Government or to make any survey, assessment or contract on behalf of the Government or to execute any revenue process, or to investigate, or to report on any matter affecting the pecuniary interests of the Government or to make, authenticate or keep any document relating to the pecuniary interests of the Government or to

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prevent the infraction of any law for the protection of the pecuniary interests of the Government

Tenth – Every Officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate of tax for any secular common purpose of any village, town or district or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

Eleventh – Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise as electoral roll or to conduct an election or part of an election.;

Twelfth – Every person –

(a)in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government ;

(b)in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government Company as defined in Section 617 of the Companies Act, 1956 (Act 1 of 1956)"

A careful perusal of the definition of 'public servant' in Section 21 of the Indian Penal Code shows that neither the petitioner hospital nor the Authorization Committee constituted under Section 9(4) of the Transplantation Act can be said to be a 'public servant'.

27. It may be mentioned that under Section 9(4) (b) of the Transplantation Act, the State Government has to constitute by notification an Authorization Committee consisting of such members as nominated by the State Government. Neither the Authorization Committee nor its members can be said to be 'public servants' as defined in Section 21 of the Indian Penal Code, because they do not fall within any of the categories mentioned in Section 21 of the Penal Code.

28. In these circumstances, we are of the opinion that the Protection of Human Rights Act, 1993 has no application to the facts of the present case at all. Since the Human Rights Act was not applicable at all, we fail to see how the provisions of the said Act could have been invoked, and how the State Human Rights Commission could have taken cognizance of the matter. Accordingly, we hold that the impugned order dated 28.7.2004 made in S.H.R.C Case No.5026/2002/SS is a nullity being without jurisdiction, and it is hereby quashed.

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29. However we cannot leave the matter at that. Though we are of the view that the State Human Rights Commission had no jurisdiction in the matter, we certainly share the concern and agree with the view expressed by the Commission that the matter requires to be thoroughly probed, and those responsible should be brought to book under the provisions of the Transplantation Act, and/or Penal code or other penal statutes.

30. There is no dispute that Section 9(3) of the Transplantation Act was violated in this case since the kidney of a person, who is not a near relative, was removed and transplanted without prior approval of the Authorization Committee. Even the alleged certificate of the Authorization Committee was found to be a bogus one. Hence serious offences have been committed which calls for a thorough probe into the matter and action need to be taken including criminal prosecution of those found to be involved.

31. The very purpose of the Transplantation Act was to prevent exploitation of poor persons by greedy doctors and other greedy persons.

32. A large number of incidents have come to light where poor persons who were in dire need of money were exploited and one of their kidneys removed. For instance, sometime back in Noida, Uttar Pradesh, it was found that poor persons often coming from hilly areas or villages, were given anesthesia, and later on on regaining consciousness they found that one of their kidneys was removed. The same practice has been going on in many places where poor persons have been deceived or exploited due to poverty. This phenomenon has also been highlighted in the novel "Coma" by the American writer Robin Cook.

33. A perusal of the complaint of Balasubramani (quoted earlier in this judgment) prima facie shows that the Doctor took undue advantage of the poverty of Balasubramani, who was in great financial distress, and hence the latter agreed to donate one of his kidneys for Rs.1,50,000/- but for which he was paid only Rs.45,000/-. We are not expressing any opinion about the veracity of the complaint of Balasubramani as that has to be enquired into, but if it is correct, it is indeed a very serious matter, and all persons responsible deserve severe punishment under the provisions of the Transplantation Act or Penal Code or other criminal statute.

34. Thus, while we set aside the impugned order of the State Human Rights commission as one being without jurisdiction, we direct the authorities concerned to make a thorough probe into the matter as also recommended by the State Human Rights Commission in its impugned order, and appropriate action should be taken against those who have committed this offence, if found true.

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35. With the above observations, this writ petition is disposed off.

36. As regards Writ Appeal No. 1394 of 2003, this relates to Writ Petition No.41806 of 2002 in which the respondents were 1).The Appropriate Authority, Human Organ Transplantation Act, 1994 and 2).The Chairman, Authorisation Committee and the Director of Medical Education. The prayer in W.P.No.41806 of 2002 was to quash the order of the first respondent dated 13.11.2002 and of the second respondent dated 29.10.2002, and for restraining the respondents from proceeding in any manner against the petitioner Santosh Hospitals Private Limited or its Chairman, Directors and the employees pursuant to the aforesaid orders. It may be noted that the first respondent by order dated 13.11.2002 only directed Dr.Vijayaraghavan and the proprietors of M/s.Santosh Hospitals to appear before the State Appropriate Authority with all relevant documents on 25.11.2002. Writ Petition No. 41806 of 2002 was dismissed by the learned single Judge by judgment dated 13.03.2003 stating that the petitioner should appear before the Appropriate Authority, Human Organ Transplantation Act, 1994. This order of the learned single Judge dated 13.03.2003 was challenged in Writ Appeal No. 1394 of 2003 in which an interim order was obtained.

37. In our opinion, there is no merit in this writ appeal as the order dated 13.11.2002 is only a show cause notice, and this Court does not ordinarily interfere with show cause notices vide Special Director Vs. Mohd. Ghulam Ghouse, AIR 2004 SC 1467, Ulagappa Vs. Divisional Commissioner, Mysore, (2001) 10 SCC 639, Executive Engineer, Bihar State Housing Board Vs. Ramesh K.Singh & Others, JT 1995 (8) SC 331 and M/s.Digivision Electronics Ltd v. Indian Bank rep. by its Deputy General Manager and another, W.P.No.13056 of 2005 etc. batch delivered on 07.07.2005. Hence, W.A.No.1394 of 2003 is dismissed since in our opinion the writ petition itself was pre-mature.

38. As regards Writ Appeal No. 1395 of 2003, this pertains to W.P.No.40101 of 2002 filed by M/s.Santosh Hospitals Private Limited praying for a Writ of Prohibition prohibiting the State Human Rights Commission and its officials from proceeding further in connection with the complaint of Balasubramani before the State Human Rights Commission. The learned single Judge in his judgment in Writ Petition No.40101 of 2002 has observed that the petitioner can put forward his case before the State Human Rights Commission as well as before the appropriate authorities under the Transplantation Act. Since thereafter the State Human Rights Commission by its order dated 28.07.2004 has disposed off the complaint finally, Writ Appeal Nos. 1395 of 2003 has become infructuous and is dismissed as such.

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39. Moreover, we have held that the Human Rights Act does not apply at all in this case, since there is no allegation of violation of Human Rights by a public servant. Accordingly, W.A.Nos. 1394 and 1395 of 2003 are dismissed. No costs. Consequently, W.P.M.P and W.A.M.Ps are closed.

Sd/

Asst.Registrar

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Sub Asst.Registrar

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Copy to:

1. The Registrar,
State Human Rights Commission, Tamil Nadu
35 Thiru Vi.Ka. Salai,
Chennai - 600 014.

2. The Chairman, Authorisation Committee,
and the Director of Medical Education,
Chennai - 600 010.

3. The Secretary to the Government
of Tamil Nadu, Home Department,
Chennai - 600 009.

4. The Secretary to the Government of
Tamil Nadu, Health and Family Welfare
Department, Chennai - 600 009.

5.The Director of Medical and
Rural Health Services
Appropriate Authority
Human Organ Transplantation Act 1994
Chennai 600 006.

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+3ccs to M/s. Muthumani Doraisami Advocate Sr 28404
+1cc to Mr.Govi Ganesan, Advocate Sr 28397
AK (CO)
km/18.7.

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